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Supreme Court, U.S.
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IN THE

Supreme Court of the United States

BRIAN BEVAN,

Petitioner

v.

LEE COUNTY SO

Respondent.

On Petition For Writ of Certiorari
To The United States Court of Appeals
Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

BRIAN BEVAN, *ATTORNEY PRO SE,* 1200 Masanabo Lane
Fort Myers, FL 33919, 239-939-2400

QUESTIONS PRESENTED

I. Did the seizure of Petitioners' mobile home violate the Supreme Court of the United States holding of *Soldal v. Cook County, Ill.*, 506 U.S. 56 (1992) and the 4th Amendment to the United States Constitution.

II. Did the lower Court's Order violate the Supreme Court of the United States holding of *United States v. Olano,* 507 U.S. 725 (1993) when an alternate juror not only deliberated in the jury room but also became the foreperson of the jury.

III. Did the lower Court err when it ruled that the Petitioner had sued the Respondent Corporations based on a claim of respondeat superior or vicarious liability, when the Petitioner had actually sued the Respondent Corporations in **NEGLIGENCE.**

CERTIFICATE OF INTERESTED PARTIES

The undersigned attorney pro se certifies that the following listed parties have an interest in the outcome of the case.

BRIAN BEVAN
PETITIONER

THE LEE COUNTY SHERIFFS OFFICE
RESPONDENT

RICHARD COWART
RESPONDENT

CLAUDIA COWART
RESPONDENT

JACKIE COWART
RESPONDENT

KENNETH ERNE
RESPONDENT

SGT. BRAD HAMILTON
RESPONDENT

ROSS DI PASQUALE
RESPONDENT

HARVEY HUDNALL
RESPONDENT

JOHN MCDOUGAL
RESPONDENT

MARK DURLING
RESPONDENT

FRED BOND
RESPONDENT

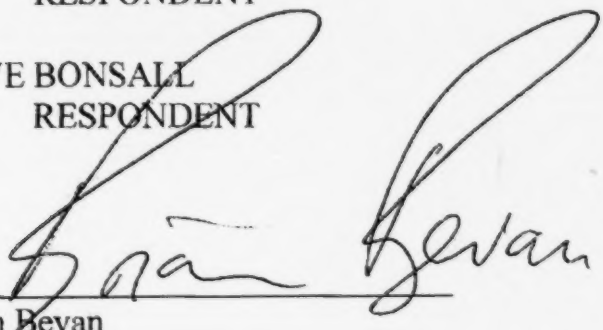
CHICAGO TITLE INSURANCE COMPANY
RESPONDENT'S INSURANCE COMPANY

FIDELITY NATIONAL FINANCIAL
PETITIONER'S AND RESPONDENT'S
INSURANCE COMPANY

SOUTHWEST UTILITY SYSTEMS, INC.
RESPONDENT

MIKE SCOTT
RESPONDENT

DAVE BONSALL
RESPONDENT



Brian Bevan
Attorney Pro Se

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The opinion of the United States Court of Appeals appears at Appendix A to the petition and is not reported in the Federal Reporter. Slip Copy, 2007 WL 30039(C.A. 11 (Fla.)).

The report and recommendation to the United States District Court dated February 23, 2005 appears at Appendix B to the petition and is not reported in the Federal Reporter.

The opinion and order of the United States District Court dated September 13th, 2005 appears at Appendix C to the petition and is not reported in the Federal Reporter.

The opinion and order of the United States District Court dated September 19th, 2005 appears at Appendix D to the petition and is not reported in the Federal Reporter.

The opinion and order of the United States District Court dated October 18th, 2005 appears at Appendix E to the petition and is not reported in the Federal Reporter.

The opinion and order of the United States District Court dated February 14th, 2006 appears at Appendix F to the petition and is not reported in the Federal Reporter.

The opinion and order of the United States District Court dated March 30th, 2006 appears at Appendix G to the petition and is not reported in the Federal Reporter.

The opinion and order of the United States District Court dated May 5th, 2006 appears at Appendix H to the petition and is not reported in the Federal Reporter.

The opinion and order of the United States District Court dated August 9th, 2006 appears at Appendix I to the petition and is not reported in the Federal Reporter.

STATEMENT OF JURISDICTION

The United States Supreme Court has jurisdiction over this case in accordance with the 4th Amendment, 5th Amendment and the 14th Amendment to the United States Constitution. The date on which the United States

Appellate Court for the Eleventh Circuit decided my case was on January 5, 2007. Brian Bevan petitions this Court from the denial of the rehearing en banc of the United States Appellate Court for the Eleventh Circuit dated March 9, 2007. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

The Petitioner, Brian Bevan, purchased a home and easement on a **private lane** (Document 186) located at 1200 Masanabo Lane, Fort Myers, Florida 33919 on or about the year 1981. On or about August 31, 1999, the Respondents descended upon the Petitioner's easement, a private easement for driveway and roadway purposes that **only** the Petitioner had the right to use; the Respondent's Cowarts did not possess the right to use the Driveway/Roadway. The Respondents used men armed with machetes, chainsaws, bulldozers, and dumptrucks to destroy Brian Bevan's gate, mailbox, fence, citrus trees, rare tropical plants and to seize his house trailer and all of his personal effects stored in his house trailer. Numerous members of the Lee County Sheriff's Department were

present to prevent the Petitioner from stopping the destruction and seizure of his personal property. The Sheriff's Department did not advise the Petitioner of the impending home invasion. The Law Enforcement Respondent's threatened the Petitioner and his family with threats of arrest if they attempted to stop the destruction and seizure of Petitioners' property. Respondent Richard Cowart threatened Petitioner and his family with violence by wielding a 30" machete within inches of their presence. Respondents Richard Cowart and Claudia Cowart, through their jointly owned company Southwest Utility Systems, Inc., used their employees armed with chainsaws and bulldozers to threaten Petitioner and his family with violence. The threats, destruction and seizure of Petitioners' mobile home and its' contents were videotaped by both the Petitioner and the Law Enforcement Respondents and were used in evidence by the Petitioner. (Document #148).

The members of the Lee County Sheriff's Department ordered Chuck's Whiskey Creek Service to

tow Petitioner's mobile home, (Document 225) housing Brian Bevan's effects, from his home on Masanabo Lane where it had been located for some twenty (20) years. It should be noted that Respondents Claudia Cowart and her now ex-husband Richard Cowart lived on another street, called Logan Lane, with a separate entrance on Logan Lane to their home. The Respondents Richard Cowart and Claudia Cowart **falsely** claimed that they had a court order to allow the destruction and seizure of Appellants' property. Lee County Sheriff Commander Kenneth Erne and Sergeant Ross Di Pasquale gave fraudulent affidavits that they had seen the Court Order to allow the seizure and destruction of the Petitioner's personal property. However, the District Court Judge Steele ruled that no order existed. (Document 264, ¶ 46).

Under direct examination, Respondent Richard Cowart admitted that he had **no court order** for the destruction and seizure of Brian Bevan's property on Masanabo Lane. (R. at 230). Respondent Richard Cowart admitted that he had **no court order to remove any encumbrances on Masanabo Lane.** (R. at 230).

Respondent, Richard Cowart freely admitted to the fact that he **seized** Appellant's mobile home and it's contents. (R. at 286). The non-existant Court order was the basis for the home invasion of Petitioner's private driveway and the seizure of his personal property.

The District Court ruled that "the seizure of the trailer violated the Fourth Amendment." (Document 264, ¶ 47). The Law Enforcement Respondents, the Respondents Richard Cowart and Claudia Cowart and Southwest Utility Systems Inc. violated the holding of *Soldal.*

SUMMARY OF THE ARGUMENT

The Respondents and the jury decision violated the Supreme Court of the United States holding of *Soldal v. Cook County, Ill.,* 506 U.S. 56 (1992).

The Judgment of the District Court violated the Supreme Court of the United States holding of *United States v. Olano,* 507 U.S. 725 (1993) as an alternate juror not only deliberated in the jury room but also became the foreperson of the jury.

The lower Court erred when it ruled that the Petitioner had sued the Respondent Corporations based on a claim of respondeat superior or vicarious liability, when the Petitioner had actually sued the Respondent Corporations in **NEGLIGENCE.**

ARGUMENT

I. Did the seizure of Petitioners' mobile home violate the Supreme Court of the United States holding of *Soldal v. Cook County, Ill.*, 506 U.S. 56 (1992) and the 4th Amendment to the United States Constitution.

The facts in this case are remarkably similar to the events in *Soldal v. Cook County, Ill.*, 506 U.S. 56 (1992). The *Soldal* Court held that a "seizure" of property...occurs when "there is some meaningful interference with an individual's possessory interests in that property." *Id.*, at 61. The Supreme Court opined that "plain view" seizures have been scrupulously subjected to Fourth Amendment inquiry. **Thus, in the absence of consent or a warrant permitting the seizure of the items in question, such seizures can be justified only if they meet the probable-cause standard, and if they are unaccompanied by unlawful trespass. *Id.*, at**

66. That is because, the absence of a privacy interest notwithstanding, "[a] seizure of the article…would obviously invade the owner's possessory interest." *Id.*, at 66. The plain view doctrine "merely reflects an application of the Fourth Amendment's central requirement of reasonableness to the law governing seizures of property." *Id.*, at 66. The Court went on to state "what is evident from our precedents-that the Amendment's protection applies in the civil context as well." *Id.*, at 67. Whatever its proper reading, we reaffirm today our basic understanding that the protection against unreasonable searches and seizures fully applies in the civil context. *Id.*, at 67.

The Supreme Court in *Soldal* stated "But our cases are to the contrary and hold that seizures of property are subject to Fourth Amendment scrutiny even though no search within the meaning of the Amendment has taken place. *Id.*, at 68. "More generally, an officer who happens to come across an individual's property in a public area could seize it only if Fourth Amendment standards are satisfied-for example, if the items are

evidence of a crime or contraband." *Id.*, at 68. The *Soldal* Court stated "For the plain-view cases clearly state that, notwithstanding the absence of any interference with privacy, seizures of effects that are not authorized by a warrant are reasonable only because there is probable cause to associate the property with criminal activity." *Id.*,at 69.

The District Court stated:

"For summary judgment purposes, the Court does not credit the portions of the deputies' affidavits stating there was a court order authorizing the Cowarts to destroy and/or remove Bevan's property. Plaintiff has filed affidavits which assert that no such court order was ever issued by a judge, and the record supports plaintiff on this point. No defendant has produced a court order which authorized the Cowarts to remove or destroy the personal property. The Order Dissolving Temporary Restraining Order clearly does not so provide, and no reasonable officer who read that order could have concluded that a

court had authorized the Cowarts' conduct."

(Document 264, ¶ 46).

The Distict Court went on to state the following:

"The Court finds that the Sheriff's instruction to Fundermark to remove the trailer, in the absence of an authorizing court order, legal process, or an applicable exception to the warrant requirement, was unreasonable under the circumstances and therefore the seizure of the trailer violated the Fourth Amendment." (Document 264, ¶ 47).

Respondent Richard Cowart violated the holding of *Soldal*. Under direct examination, Respondent Richard Cowart admitted that he had **no court order** for the destruction and seizure of Brian Bevan's property on Masanabo Lane. (R. at 230). Respondent Richard Cowart admitted that he had **no court order to remove any encumbrances on Masanabo Lane.** (R. at 230). Respondent, Richard Cowart freely admitted to the fact that he **seized** Petitioner's mobile home and it's contents when he testified in Federal Court:

Q. So it was you that towed my trailer from there. (R. at 286).

A. That is correct. (R. at 286).

Q. With its contents. (R. at 286).

A. I assume so. Whatever was inside of it went with the trailer; yes, sir. (R. at 286).

Q. You seized it. (R. at 286).

A. I hooked onto it with a piece of equipment, and hauled it out to the end of my property, so that the wrecker could load it on. (R. at 286).

The United States Court of Appeals for the Eleventh Circuit erred when it stated that *Soldal* did not apply because the mobile home was moved from private property onto Masanabo Lane by Richard Cowart where the tow truck operator Chuck's Whiskey Creek Service then towed it away.

The Sheriff's office contacted (Document 225) a hauling company **before** the trailer had left Petitioners' private property. The Law Enforcement Respondents left the trailer sitting on a grass verge alongside of Petitioner's private easement, on Masanabo Lane, a

private lane, (Document 186) where there was **no** right of way that could possibly be blocked. (R. at 342, 343). Deputy Hudnall testified: "But I saw the trailer sitting there…on the side of the road…down on Masanabo Lane. It wasn't on the road, it was over on the…on the grass area. Inside that gated area."

The Eleventh Circuit stated in error that Masanabo Lane was a public street, when in fact it is a private lane that is owned by the Petitioner, Brian Bevan, and his five neighbors that live on Masanabo. Masanabo Lane is not owned by any of the Respondents.

The Eleventh Circuit also erred by stating that the Law Enforcement Respondents did not participate in the removal. In Document 225, the Lee County Sheriff's Office dispatch clearly shows that the Respondents from the Lee County Sheriff's Office called Chuck's Whiskey Creek Service at 11401 McGregor Blvd on 08/31/99 with the time of 14:42 to 1200 Masanabo Lane with signal description "PRIVATE PROPERTY TOW" with reference to signal 70 of WH/GRN MALLRD TRAVEL TRAILOR FL X28 AE820S; COMPL ADV **SW**

UTILITIES REQ VEH BE TOWED OFF THEIR PROPERTY. (Document 225).

Petitioner's case is also similar to *Soldal* in that the Law Enforcement officers prevented the Petitioner from using reasonable force to protect his personal property from a seizure that the officers knew was illegal. *Soldal v. Cook County, Ill.,* 506 U.S. 56 (1992). Deputy Hudnall (R. at 349): "If anybody had interfered with the operation that we were there for, anybody could have been arrested; yes." Petitioner: "My wife? My daughter? Myself?" Deputy Hudnall: "Yes."

Respondent Richard Cowart testified that he had a quit claim deed to property on Masanabo Lane. (R. at 240). The Respondent Richard Cowart read to the Court Exhibit 2 that stated that the state court had not determined the physical location of Respondents' quit claim deed. (R. at 248). The Respondent Richard Cowart admitted that he did not know if any of his employees entered Brian Bevan's mobile home or if the door was locked or unlocked. (R. at 268). The Petitioner, Pro Se, showed the Respondent Richard

Cowart Exhibit 8 and Richard Cowart was unable to state whether the underground state ditch was located under the trailer at the time of the seizure. (R. at 270). The Respondent Richard Cowart admitted that he was carrying a machete during the destruction and seizure of Petitioners' property. (R. at 278). Respondent Richard Cowart admitted that the machete was thirty (30) inches long and that he would allow anybody to swing a machete in the presence of his children. (R. at 278).

The Petitioner Brian Bevan submitted a notarized Affidavit to the District Court that stated:

"Most of the property claimed by Claudia Cowart and Richard Cowart in a quit claim deed is actually owned by the State of Florida according to surveyors that I have employed. The State of Florida has allowed Brian Bevan to use State Land on Masanabo Lane since approximately 1980 for the purposes of storing a trailer, installing a federal mailbox, building a gate and fence and allowing him to grow and cultivate rare plants and trees. The Defendants had no right to destroy my property on State Land." (Document #151).

The district court in its Order dated September 13th, 2005 (Doc. #264) stated: "The **Cowarts** caused an attorney to send the ten-day letter to Bevan and arranged for the self-help ejection of the trailer and gate from the Property and easement utilizing their own personnel. The **Cowarts** called the Sheriff's Office and asked deputies to come to the scene to stand by and keep the peace. (Document #264, Page 15).

The district court in its Order dated September 13th, 2005 (Doc. #264) stated: "The **Cowarts** have filed Affidavits stating that **they** made the decision to remove the items upon advice of counsel. (Document #264, Page 17).

The district court in its Order dated September 13th, 2005 (Doc. #264) stated: "Additionally, **Sgt. Hamilton,** surrounded by plaintiff and **Cowart's employees,** (employees of Southwest Utility Systems, Inc. **a company owned solely by Claudia Cowart and Richard Cowart) is shown telling Bevan** that either Bevan removes the mailbox from the gate or

"we'll (the Sheriff's Deputies) remove it and place the mailbox on your property. (Doc. #148, Time: 4:21-4:40)." (Document #264, Page 17).

The district court in its Order dated September 13th, 2005 (Doc. #264) stated: "An officer also told plaintiff he should move his vehicle so the **Cowarts** would not destroy or tow it." (Document #264, Page 20).

The district court in its Order dated September 13th, 2005 (Doc. #264) stated: "The Affidavit of Sgt. Brad Hamilton (Doc. #142, Exhibit 1) states that he and the other officers were called by the **Cowarts** to the Property, and the **Cowarts** "explained that **they** had a court order permitting **them** to reclaim **their** land and remove all encumbrances, including a trailer, a fence, a mailbox and citrus trees." (Document #264, Page 19).

HOWEVER: The district court in its Order dated September 13th, 2005 (Doc. #264) stated: "For summary judgment purposes, the Court does not credit the portions of the deputies affidavits

stating there was a court order authorizing the Cowarts to destroy and/or remove Bevan's property. Plaintiff has filed affidavits which assert that no such court order was ever issued by any judge, and the record supports plaintiff on this point. No defendant has produced a court order which authorized the Cowarts to remove or destroy the personal property. The Order Dissolving Temporary Restraining Order clearly does not so provide, and no reasonable officer who read that order could have concluded that a court had authorized the Cowarts' conduct. (Document #264, Page 26).

The district court went on to state:

The Court finds that the Sheriff's instruction to Fundermark to remove the trailer, in the absence of an authorizing court order, legal process, or an applicable exception to the warrant requirement, was unreasonable under the circumstances and therefore the seizure of the

trailer violated the Fourth Amendment.

(Document 264, ¶ 47).

Claudia Cowart was the **President and half owner** of Southwest Utility Systems, Inc. on August 31, 1999, and **it was Southwest Utility Systems, Inc.'s employees and equipment that caused the destruction and seizure of Plaintiff's property. (Doc. #349, Item 21).**

Richard Cowart's testimony at trial places Claudia Cowart at a planning meeting to destroy and seize Brian Bevan's property with the Law Enforcement Appellees.

The following is Richard Cowart's testimony:

A. As I recall, there was only one meeting, and I believe it took place at 1204 Logan Lane.

Q. Is that your – or was that your home address?

A. It was my home address; yes, sir.

Q. So… is it your testimony that these people gathered at your house to discuss me?

A. That is correct.

Q. And what could you possibly do to me? Or have done to me?

A. I don't recall exactly what we were discussing. It was mainly with the Sheriff's Department.

Q. Wasn't there approximately 20 neighbors that you rounded up?

A. I don't recall the exact number.

Q. Was your wife there?

A. Yes, sir; she was.

Q. Your first wife, Claudia.

A. That is correct.

Q. How about the second wife?

A. I have no idea.

Q. But she lived in the house with you.

A. There again, yes, she did, at the time.

(R. 251-252).

Respondents Richard Cowart and Claudia Cowart were not just accomplices of the Law Enforcement Respondents in this illegal seizure; they were in actuality Principal Perpetrators and they should be found liable for

the unjustifiable and illegal seizure of the Petitioner's mobile home and contents, that violated the holding of the Supreme Court of the United States in *Soldal.*

The ramifications of the lower court's decision, if upheld, would be a total disaster on the American economy. Not only mobile homes will be seized without a warrant, but businesses, homes, farms, stocks and bonds. Foreign investors will pull their money out of the New York Stock Exchange if they know that their stocks can be seized by the government without a warrant or court order. A complete lack of faith in the U.S. dollar will occur because no one will do business in American dollars if they know that their bank accounts will be seized without a warrant or court order.

In Communist China, the Chinese government has written into their Constitution that no one's property will be seized by the government. The Chinese government did this because they know if businessmen have confidence that their factories, machines and stocks will not be seized, then foreign investors will put their money into China. So as it stands now, a communist Chinese

person has more rights than an American. The lower court's ruling is manifestly unjust, unconstitutional, and un-American. If America is to remain the global leader for business, then this writ of certiorari must be granted.

II. Did the lower Court's Order violate the Supreme Court of the United States holding of *United States v. Olano,* 507 U.S. 725 (1993) when an alternate juror not only deliberated in the jury room but also became the foreperson of the jury.

Federal Rules of **Criminal** Procedure **Rule 24 (c)(3)** refers to retaining Alternate Jurors and states: **"The Court must ensure that a retained alternate does not discuss the case with anyone until that alternate replaces a juror or is discharged."** *Fed.R.Crim.Proc. Rule 24(c)(3).* **The Supreme Court** in *United States v. Olano,* 507 U.S. 725 (1993), held that: "The question, then, is whether the **instant violation of Rule 24(c)** prejudiced respondents, either specifically or presumptively. In theory, the presence of alternate jurors during jury deliberations might prejudice a defendant in two different ways: either because the alternates actually participated in the deliberations, verbally or through

'body language;' or because the alternates' presence exerted a 'chilling' effect on the regular jurors. *Id.* at 739. Conversely, 'if the alternate in fact abided by the court's instructions to remain orally silent and not to otherwise indicate his views or attitude...and if the presence of the alternate did not operate as a restraint upon the regular jurors' freedom of expression and action, we see little substantive difference between the presence of [the alternate] and the presence in the juryroom of an unexamined book which had not been admitted into evidence. *Id.* at 739.

In the present case the alternate juror, Astrid Soria, not only deliberated with the jury after being dismissed but became the foreperson and returned a verdict in favor of Respondent Richard Cowart within twenty-six (26) minutes. At 12:04 P.M. Court was recessed, at 12:30 P.M. Court was reconvened with a verdict. Astrid Soria was no unexamined book in the juryroom. To the contrary, she greatly influenced the other six jurors in violation of Federal Rule of **Criminal** Procedure Rule 24(c)(3) which states: "The Court must

ensure that a retained alternate does not discuss the case with anyone, until that alternate replaces a juror or is discharged;" and in violation of *United States v. Olano,* 507 U.S. 725 (1993). The following is a reflection of the record:

The Court: So that makes Ms. Glendaniel six. Let's go through this. Mr. Troutman is Number 1, Mr. Meyer is 2, Ms. Bryant is Number 3, Miss Stewart is Number 4, Miss Connor is Number 5, and Ms. Glendaniel is Number 6. (R. at 38).

The Court: And then I'm going to select two alternates. (R. at 38).

The Court: So Miss Hanko is Number 7, Miss Soria is Number 8. (R. at 40).

On February 16th, 2006 the record reflects the following:

The Court: Mrs. Soria, do I gather you are the foreperson? (R. at 2).

Juror Soria: I am. (R. at 2).

The Court: And Mrs. Soria, are these your verdicts? (R. at 515).

Juror Soria: Yes. (R. at 515).

The Third District Court of Appeal for Florida held that when an alternate juror is present during deliberations that it is reversible error, even in civil cases. *Eickmeyer v. Dunkin Donuts of America,* 507 So.2d 1193 (Fla. 3rd D.C.A. 1987). The Court went on to state that they rejected the contention that the plaintiff waived reliance on the error by failing to file a post-trial memorandum or motion for new trial. "As a general rule, all that is required-even in a non-'fundamental' situation-to preserve error below is to give the trial court a fair opportunity to rule on the issue." When the plaintiff in *Dunkin* asserted her position by motion for mistrial when the error became apparent on the jury's return, there was no requirement of a separate motion for new trial. *Id.*

The alternate juror, Astrid Soria, deliberations in the present case was fundamental error and requires a reversal and remand with orders for a new trial.

III. Did the lower Court err when it ruled that the Petitioner had sued the Respondent Corporations based on a claim of respondeat superior or vicarious liability, when the Petitioner had actually sued the Respondent Corporations in **NEGLIGENCE.**

The Petitioner, Brian Bevan, had actually sued the Respondent Corporations and it's employees under the theory of **NEGLIGENCE** not respondeat superior or vicarious liability. A person who was injured or sustained property damage due to negligence by an employee may be able to seek a remedy through various actions other than a respondeat superior action against the employer. An obvious possibility may be to bring a negligence action directly against the negligent employee. Both the employer and the employee can generally be joined as defendants in an action based on an employee's negligence within the scope of his or her employment, and each may be held jointly and severally liable. *See, e.g., McCottrell v. Chicago,* 481 NE 2d 1058 (1985); *SMS Trucking Co. v. Midland Vet. Inc.,* 185 NW 2d 667 (1971); *Smith v. Raparot*, 225 A2d 666 (1967); 53 Am. Jur. 2d, Master and Servant §§ 576-579.

The essential elements of an actual agency relationship are "(1) acknowledgement by the principal that the agent will act for him, (2) the agent's acceptance of the undertaking, and (3) control by the principal over

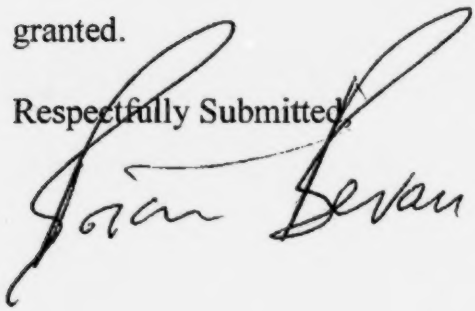
the actions of the agent." *Goldschmidt v. Holman,* 571 So.2d 422, 424 n.5 (Fla. 1990).

In the case at bar, Richard Cowart and Claudia Cowart were acting for the principal, Southwest Utility Systems, when they requested the Lee County Sheriff's Office to tow the Petitioners' trailer. In Document 225, the Lee County Sheriff's Office dispatch clearly shows that the Respondents from the Lee County Sheriff's Office called Chuck's Whiskey Creek Service at 11401 McGregor Blvd on 08/31/99 with the time of 14:42 to 1200 Masanabo Lane with signal description "PRIVATE PROPERTY TOW" with reference to signal 70 of WH/GRN MALLRD TRAVEL TRAILOR FL X28 AE820S; COMPL ADV **SW UTILITIES REQ VEH BE TOWED OFF THEIR PROPERTY.** (Document 225). The agent's accepted the undertaking of the destruction and seizure of the Petitioner's property. Finally, Southwest Utility Systems had control over it's employees that seized the Petitioners' property.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully Submitted,



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Date: June 7th 2007